GSA

GSA National Capital Region

March 16, 2012

Cecily Beall
District Department of the Environment
Air Quality Division
1200 First Street, NE, 5th Floor
Washington, D.C. 20002

Re: GSA Comments on District Department of the Environment's Proposed New Source Review Regulations

To Whom It May Concern:

The District Department of the Environment (DDOE) is proposing to amend Chapters 1 and 2 of title 20 (Environment) of the District of Columbia Municipal Regulations (DCMR) to establish a New Source Review (NSR) program. In accordance with DDOE's Notice of Proposed Rulemaking, the United States General Services Administration (GSA) hereby submits comments on the proposed regulation.

Comment 1

DDOE proposes to amend title 20 of the DCMR to add new section 208 relating to plantwide applicability limit (PAL) permits for major sources, along with definitions in section 299. GSA notes that PAL baseline period definition is less flexible and more stringent than Federal requirements in that the two consecutive years immediately prior to the year the application for a PAL is submitted must be utilized. A facility may use a different baseline (2 years within last 5) if one can prove that operations during that period would be "more representative of normal source operation." Please provide an explanation as to why the DDOE did not adopt the federal methodology [contained in 40 CFR 52.21(b) (48) (ii)] in determining a PAL baseline period.
GSA requests that DDOE adhere to the Federal requirements. GSA believes that this stringent amendment will impose undue burden and prevents businesses from taking advantage of useful operating data that may go back beyond 5 years.

Comment 2

GSA notes that PAL permits become effective on the date of the issuance, not the date that the applicable unit goes into operation. However, the PAL effective date for an increased PAL is the date any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant. The PAL limit that was in effect prior to the change shall remain in effect until the new PAL is effective." Please clarify if an initial PAL application is considered an increased PAL or if this is only if an existing PAL is increased?

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Comment 3

Section 208.6(e) – Section 208.6(e) states that each PAL may regulate only one pollutant. Please confirm that a facility can obtain separate PALs at one time for different pollutants. Section 208.6(f) – Section 208.6(f) states that each PAL shall have a life of no more than 5 years. EPA regulations allow for PALs to have an effective period of 10 years per 40 CFR 52.21(aa) (4) (i) (f). Given the time and paperwork burden associated with the initial and renewal filings of a PAL, GSA requests that DDOE retain the Federal PAL effective period allowance of 10 years to minimize the burden of paperwork and maximize the continuity of operation.

Comment 4

Under proposed section 208.35(b), source must promptly submit reports of deviations or exceedances from PAL requirements. Given that proposed section 208.35 relates to semi-annual reporting, GSA requests that DDOE clarify whether a report under proposed section 208.35(b) is considered prompt if it complies with the overarching semi-annual reporting requirement of the proposed section. Alternately, the DDOE can clarify what is "prompt" and what are the approved methodologies (phone, written, etc.).

Under proposed section 208.35(c), deviation reports must be submitted in accordance with Title V [Section 302.1(c) (3) (C)]. Please clarify if this means deviations with the PAL will be submitted in the semi-annual deviation reports, earlier, or separately.

Comment 5

Proposed section 204.6(b), working in conjunction with the proposed definition of "net emission increase" in section 299 and the proposed definition of "potential-to-emit" in section 199.1, would trigger NSR for GSA in many cases. As you may know, GSA's central heating plant generates and distributes steam to heat approximately 100 Federal buildings across Washington, DC. To ensure that GSA can meet peak demand during the coldest days of winter, GSA has significant boiler capacity. Despite this capacity, the boilers that generate this steam are frequently not operating at or near their full potential, particularly between the months of April and October, and on nights and weekends during the regular heating season. GSA anticipates that applicable construction/modification will almost always trigger NSR, even when actual impacts on emissions will be relatively small. Accordingly, GSA views the applicable post-project potential-to-emit calculations schemes to be overly inclusive, and therefore overly burdensome from a cost perspective and not very business friendly. GSA requests that DDOE consider adoption of actual-to-projected-actual type standards, at least for sources that have emission schedules that predictably exhibit significant variance between actual and potential emissions.

Comment 6

GSA notes that an emission unit is affected by a project if an emissions increase from the unit would occur as a result of the project, regardless of whether a physical change or change in the method of operation will occur at the unit. GSA believes that this standard may be inconsistent with federal law where a unit does not have to install best available control technology if it is not "touched" by the project. However, it is unclear if these "types" of existing emission units would also meet the requirements of this section, such as LAER. Federal law requires only new and modified sources to comply with LAER. Please clarify if the intent is to only include these types of "associated emission increases" in determining major NSR applicability and not with regard to the other elements of major NSR (i.e., LAER).

Comment 7

GSA notes that section 209.1(b) has proposed the implementation of minor NSR standards for any new and/or modified sources or new and/or modified air pollution control devices with a PTE greater than 5 tpy of VOCs, NO_x, SO_2, PM_{10}, $PM_{2.5}$, and HAPs. GSA would like to seek clarification on how a facility should determine the applicability of this section with regard to emergency generators and fire pumps; these units are typically limited to 500 operating hours in permits?

Under proposed section 209.3, sources that meet the applicability requirements of Section 209.1 are required to implement LAER, BACT, MACT, a control approved in advance by the DDOE, or a case-by-case DDOE determination using a top down process. Is this a pollutant by pollutant requirement or a "by the project" requirement?

Comment 8

Sources must file appropriate applications, including applications for renewal of any operating permit, if operations are to continue beyond the expiration date of an existing permit. 200.5 (Introductory text says "... operating permits issued under 20 DCMR 200 must be renewed upon expiration to allow continued operation of the source.") Please confirm that the submittal of a timely renewal application applies to both types of permits, construction and operating permits.

Under proposed section 200.6 establishing source category permits, 200.6(b) states that the department shall establish criteria by which sources may qualify for the source category permit. GSA suggests that these criteria be submitted for comments before approval and how does the criteria differ from an actual source category permit application? Is the DDOE considering an emergency generator source permit? What is the time line of potentially making this type of source category permit available?

Comment 9

Under proposed section 210, new notice and comment requirements have been added for Chapter 2 permits. Do these public notice provisions allow facilities to now obtain "synthetic minor" permits in D.C.? If not, could the rule be revised to explicitly allow for synthetic minor?

Comment 10

The GSA notes that the DDOE has amended the NSR regulations such that a 5-year look-back period and the same 24-month period (for multiple pollutans/projects) are now proposed for both electric-generating sources and steam-generating sources when compared to the flexibility provided in the Federal NSR rule of a 10-year look-back period for steam-generating sources and 5-year look-back period for electric-generating sources as well as a different 24-month period selected for different pollutants, when calculating pre-project baseline actual emissions. The GSA proposes that the DDOE retain the Federal flexible definition of the 10-year look-back period, the 5-year look-back periods and the option to select different 24-month periods for different pollutants when calculating pre-project baseline actual emissions. The inherent flexibility in the Federal NSR is good for business growth. at least for sources that have emission schedules that predictably exhibit significant variance between actual and potential emissions. This may help the GSA utilize operating and actual emissions data going back beyond 5 years without potential harm to the NAAQS.

Comment 11

With the emergence of this significant regulation in the District, the GSA would like to propose that the DDOE organize an ERC (Emission Reduction Credit) registry pool system that guides the management of qualified ERCs that can be used in the District. For example, in addition to internal offsets, sources will be interested to know whether or not ERC purchased from other sources located in upstream states, such as Pennsylvania, Delaware, Maryland or even Virginia, qualify as external ERC/offset that can be used to avoid NSR.

Due to the nature of how ozone is formed, where both VOC and NOx are precursor pollutants to ozone, and the argument that a reduction in VOC or NOx will produce similar and proportional reductions in ozone, would the DDOE consider inter-pollutant trades between VOC and NOx on a 1:1 ratio?

Thank you in advance for your consideration of GSA's concerns. If you have any questions about these comments, please contact George Korvah at (202) 690-9719.

Sincerely,

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